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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,333	02/28/2002	Robert L. Meyer	MBC0001	8503

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT PAPER NUMBER

3635

DATE MAILED: 05/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/085,333

Applicant(s)

ROBERT L. MEYER ET AL.

Examiner

YVONNE M. HORTON

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Feb 28, 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4-7, 13-16, 19-22, and 27 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 8-12, 17, 18, 23-26, and 28-35 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 1 1/2 6) ☐ Other:

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,12-14,27 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #4,312,160 to WILBANKS. WILBANKS discloses a concrete column (10) having a proximal end planted in the earth below the water (9), column 2, lines 51-52, and a wood column (13), column 3, lines 4-5, extending substantially vertical. In further regards to claims 12 and 14, the assembly of WILBANKS also includes a roofing member (20) for a building (unlabeled); wherein the roof assembly has a plurality of trusses (32). In reference to claim 13, the assembly includes a siding member (17) attached to the columns (10).

In regards to claim 27, WILBANKS teaches the method of planting a plurality of concrete foundations (10) in the earth, column 2, lines 51-52; and affixing a wood column (13) thereto in a vertical orientation.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 4 and 19 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,312,160 to WILBANKS. As detailed above, WILBANKS discloses the basic claimed column except for explicitly detailing that the column is precast. Although WILBANKS is silent in this regard, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have formed the column precast, especially since the column of WILBANKS is being inserted in water prior to being set in to the earth.

6. Claims 5,6,20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,312,160 to WILBANKS in view of US Patent #4,386,762 to COLLINS. WILBANKS discloses the basic claimed column except for the explicit use of reinforcing bars. Rebars are old and very well known for their use in concrete structures. COLLINS teaches that it is known in the art to provide a concrete column (14) with u-shaped reinforcing. Thus, it would have been

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obvious to one having ordinary skill in the art at the time the invention was made to provide the concrete column of WILBANKS with the u-shaped reinforcement of COLLINS in order to provide the structure with additional rigidity.

7. Claims 7 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,312,160 to WILBANKS in view of US Patent #4,767,095 to FITZGERALD et al. WILBANKS WILBANKS discloses the basic claimed column except for the explicit use of reinforcing bars. Rebars are old and very well known for their use in concrete structures. FITZGERALD et al. teaches that it is known in the art to provide a concrete column (14) with four reinforcing bars. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the concrete column of WILBANKS with the four bars of reinforcement of FITZGERALD et al. in order to provide the structure with additional rigidity.

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,312,160 to WILBANKS in view of "HOGE BUILDINGS". WILBANKS discloses the basic claimed column and building except for the use of girts. "HOGE BUILDINGS" teaches that it is known in the art to provide a column and building with girts (4). Thus, it would have been obvious to one having ordinary skill in the art to provide the system of WILBANKS with the girts of "HOGE BUILDINGS" in order to provide the siding with additional reinforcement.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,312,160 to WILBANKS in view of "POST FRAME CONSTRUCTION", page 10.

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WILBANKS discloses the basic claimed column except for having a concrete pad at a distal end thereof. "POST FRAME CONSTRUCTION" teaches that it is known in the art to provide a concrete column with a concrete pad at a distal end thereof. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the concrete column of WILBANKS with the concrete pad of "POST FRAME CONSTRUCTION" in order to better level the concrete column within the earth and to also make the column more stable.

*Allowable Subject Matter*

10. Claims 2,3,8-12,17,18,23-26 and 28-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH



May 19, 2003